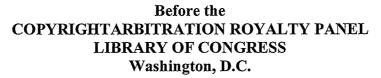
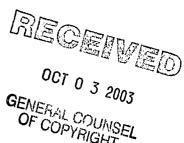
## ORIGINAL





In the I	Matte	er of		}
				}
T	, •	C 1 0 0 0	1 1000	,

Distribution of 1998 and 1999 Cable Royalty Funds Docket No. 2001-8 CARP CD 98-99

#### PROGRAM SUPPLIERS' RESPONSE TO SEPTEMBER 24, 2003 ORDER

Program Suppliers file this response to the questions posed by the Copyright Arbitration Royalty Panel in its September 24, 2003 Order:

- 1. Program Suppliers believe that the Canadian Claimants corrected testimony, served August 28, 2003, uses the correct 1998 Bortz data.
- 2. Consistent with the proposals contained in their proposed Findings of Facts and Conclusions of Law, Program Suppliers believe that the Music Claimants should receive the same share award for the Basic, 3.75% in Syndex Funds for each of the subject years.

Respectfully submitted,

Michael E. Tucci Gregory O. Olaniran Robert L. Eskay, Jr. Stinson Morrison Hecker LLP 1150 18<sup>th</sup> Street, N.W., Suite 800 Washington, D.C. 20036 (202) 785-9100

Attorneys for Program Suppliers

October 3, 2003

#### **CERTIFICATE OF SERVICE**

hereby certify that I have caused a copy of the foregoing document in Docket No. 2001-8 CARP CD 98-99 to be served via electronic mail this 3<sup>rd</sup> day of October, 2003, to the following:

#### **ASCAP**

Carol A. Witschel Stefan M. Mentzer White & Case 1155 Avenue of the Americas New York, NY 10036-2787

Samuel Mosenkis **ASCAP** One Lincoln Plaza New York, NY 10023

#### BMI

Michael J. Remington Philip J. Mause Jeffrey J. Lopez Drinker Biddle & Reath LLP 1500 K Street, NW, Suite 1100 Washington, DC 20005

John C. Beiter Loeb & Loeb 45 Music Square West Nashville, TN 37203

#### **SESAC**

#### **Public Television Claimants**

Timothy C. Hester Ronald G. Dove, Jr. Russell Jessee Covington & Burling 1201 Pennsylvania Avenue, NW Washington, DC 20044-7566

#### **Joint Sports Claimants**

Robert Alan Garrett James Cooper Christopher Winters Michele T. Dunlop Arnold & Porter 555 Twelfth Street, NW Washington, DC 20004-1206

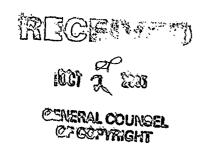
#### **National Association of Broadcasters**

John I. Stewart, Jr. Parul Desai Michael Lazarus Crowell & Moring, LLP 1001 Pennsylvania Avenue, NW Washington, DC 20004

### **Canadian Claimants**

L. Kendall Satterfield Finkelstein, Thompson & Loughran 1055 Thomas Jefferson Street, NW, Suite 601 Washington, DC 20007

Michael E. Tucci



# Before the COPYRIGHT OFFICE LIBRARY OF CONGRESS

Washington, D.C. 20540

	) ONIONIAL
In the Matter of	)
	) Docket No. 2001-8 CARP 98-99
DISTRIBUTION OF THE 1998 AND 1999	)
CABLE ROYALTY FUNDS	)

## RESPONSE OF THE CANADIAN CLAIMANTS GROUP TO QUESTIONS POSED BY THE PANEL

The Canadian Claimants Group ("CCG"), by its counsel, respectfully responds to the questions posed by the Copyright Arbitration Royalty Panel in its order dated September 24, 2003.

Question 1. In Appendix E of their Proposed Findings of Fact and Conclusions of Law, did the Canadians erroneously use 1998 Bortz data, rather than 1999 Bortz data, in their calculations of the 3.75% Fund shares for 1999?

Response: On August 27, 2003, the CCG filed a motion to correct Appendix D and Appendix E because the originals had erroneously used 1998 Bortz data rather than 1999 Bortz data. The August 27, 2003, corrected versions of CCG Appendices D and E use the 1999 Bortz survey numbers as presented in Appendix B to the Written Rebuttal Testimony of James Trautman. By Order

dated September 10, 2003, the CARP approved the CCG motion to correct Appendices D and E.

Question 2. Does any party contend that Music should <u>not</u> receive the same share for the

3.75% Fund and the Syndex Fund as for the Basic Fund? If so, please explain

why and cite the record evidence supporting your contention.

Response:

The CCG do not seek a share of the Syndex Fund and express no view on what share Music should receive. The CCG agree that the Music Claimants should receive shares from both the 3.75% and Basic Funds that are adjusted only to reflect the differing composition of claimant groups entitled to share in each of the funds. Such adjustments are reflected in the CCG Reply Findings, Appendices B - E, where the Basic and 3.75% awards are mathematically

adjusted to reflect the differing combinations of claimants in each fund.

Dated: October 2, 2003

Respectfully submitted,

L. Kendall Satterfield

Richard M. Volin

1050 30th Street, N.W.

Washington, D.C. 20007

Tel: (202) 337-8000

Fax: (202) 337-8090

Counsel for Canadian Claimants Group

### CERTIFICATE OF SERVICE

I, Kendall Satterfield, hereby certify as of October 2, 2003, that a true and correct copy of the foregoing document was sent by first class mail to the persons on the service list below:

Kendell Still

Paul Greco	Christopher Winters	
Public Broadcasting Service 1320 Braddock Place	Arnold & Porter 555 Twelfth Street, N.W.	
Alexandria, VA 22314	Washington, D. C. 20004	
John I. Stewart, Jr. Crowell & Moring 1001 Pennsylvania Avenue, N.W. Washington, D. C. 20004	Ron Dove Covington & Burling 1201 Pennsylvania Ave., N.W. Washington, D. C. 20004	
Marvin L. Berenson	Carol A. Witschel.	
Joseph J. DiMona Broadcast Music, Inc.	White & Case 1155 Avenue of the Americas	
320 West 57 <sup>th</sup> Street	New York, New York 10036	
New York, NY 10019	,	
Phillip J. Mause Jeffrey J. Lopez Drinker, Biddle & Reath 1500 K Street, N.W Ste. 1100 Washington, D. C. 20005	Henry L. Baumann Bart Stringham National Association of Broadcasters 1771 N Street, N.W. Washington, D. C. 20036	
Gregory O. Olaniran, Esq.	John C. Beiter	
Stinson Morrison Hecker LLP 1150 18 <sup>th</sup> Street, N.W., Suite 800	Loeb & Loeb, LLP 1906 Acklen Avenue	
Washington, D.C. 20036-3816	Nashville, TN 37203	
Joan M. McGivern Samuel Mosenkis ASCAP One Lincoln Plaza New York, NY 10023	Patrick Collins SESAC, Inc. 55 Music Square East Nashville, TN 37023	

#### FINKELSTEIN THOMPSON & LOUGHRAN

ATTORNEYS AT LAW

October 2, 2003

#### **By Hand Delivery**

Ms. Susan Grimes.
CARP Specialist
Office of General Counsel
U.S. Copyright Office
Library of Congress
Room LM-403
James Madison Memorial Building
101 Independence Avenue, S.E.
Washington, D. C. 20557

Re: Distribution of 1998-1999 Cable Royalty Funds

Docket No. 2001-8 CARP CD 98-99

Dear Ms. Grimes:

Enclosed please find an original and 5 copies of the Response of the Canadian Claimants Group to Questions Posed By the Panel.

Please do not hesitate to call if you have any questions about this document.

Sincerely,
Kendell Llift

L. Kendall Satterfield

**Enclosures** 

cc All Counsel